

Before the
Federal Communications Commission
Washington, DC 20554

In the Matter of)
)
Great Western Cellular Holdings, L.L.C.) CC Docket No. 94-102
Pending Request of Petition for Waiver of the)
Commission's E911 Implementation Deadlines)

To: The Commission

**PETITION TO WITHDRAW PETITION FOR
WAIVER WITHOUT PREJUDICE**

Great Western Cellular Holdings, L.L.C. ("GWCH") hereby requests Federal Communications Commission ("FCC or Commission") consent to withdraw its Petition for Waiver of the Commission's E911 Implementation Deadlines (the "Petition"), filed on November 6, 2002, without prejudice. GWCH's Petition sought waiver of Section 20.18(e) of the Commission's Rules and the Commission's *Stay Order*¹ in order to seek a modification of the E911 Phase II implementation deadlines. GWCH now submits this withdrawal request due to recent favorable developments concerning GWCH's E911 Phase I and II compliance capabilities and efforts. As a result of these developments, GWCH believes that it is on a path towards full or substantially full E911 Phase II compliance, and that the relief requested in the Petition is premature.

GWCH only recently began full scale deployment of its service. The cellular license for the Minnesota 11 – Goodhue RSA market (Call Sign WPSJ612) was granted on March 16, 2001 and GWCH began providing limited service to the public in

¹ See *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Phase II Compliance Deadline for Non-Nationwide CMRS Carriers*, CC Dkt No. 94-102, *Order to Stay*, 17 FCC Rcd 14841 (2002) ("*Stay Order*").

September 2002.² Since then, GWCH has undertaken a substantial effort to increase and expand its network and coverage areas within its licensed market. Deployment efforts include the construction of twenty-three additional sites designed to provide ubiquitous coverage throughout its service area.

At the time GWCH filed the Petition, GWCH did not expect to have sufficient cell site density throughout its market to fulfill its E911 obligations via a network-based solution and no handset-based solutions were available for GWCH's TDMA technology. In its Petition, GWCH had indicated that meeting the Commission's E911 goals would be difficult, if not impossible. While GWCH at the time reasonably believed this to be the case, as a result of GWCH's changed focus to a network-based solution coupled with its network build-out, it now appears that compliance with the Commission's rules is no longer infeasible. Since that time, GWCH has hired Intrado to coordinate its Phase I and Phase II deployment with the state of Minnesota, and arranged for network-based Phase II solution provider Andrew Corporation ("Andrew") to survey its market. Andrew tentatively concluded that cell site density allows GWCH to provide compliant E911 coverage pursuant to section 20.18(e) of the Commission's rules via its network-based solution.

GWCH's Petition was premised on the assumption that it would need to utilize a handset-based solution for Phase II in its rural markets. In its August 2003 Interim Report, GWCH indicated to the Commission that it was revisiting this approach.³

² GWCH is classified as a "Tier III" non-nationwide carrier in accordance with the Commission's *Stay Order*.

³ See Tier III Carrier Interim Report of Great Western Cellular Holdings, L.L.C., CC Docket No. 94-102 (filed Aug. 1, 2003). GWCH's decision to consider alternative Phase II technologies is consistent with the Commission's admonition that carriers look to alternatives when their initial technology selection process proves untenable. See Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911

Following discussions with Andrew, which has taken preliminary plots based on GWCH's improved market coverage, it now appears that a network-based solution may prove to be a viable alternative throughout most of GWCH's coverage area. GWCH is currently in the process of selecting a network-based solution vendor for deployment purposes. As a result, GWCH's waiver petition has been rendered premature.

Significantly, GWCH is also working closely with the state of Minnesota to effect the implementation of both Phase I and Phase II E911 service. In accordance with the state of Minnesota's wishes, GWCH has its immediate focus on meeting all of the E911 Phase I automatic location information ("ALI") and ANI requirements and expects to launch its Phase I service during second quarter of 2004. As to Phase II, through Intrado, GWCH has been in constant contact with the state and all relevant PSAPs, and has discussed alternative deployment dates in accordance with Section 20.18(j)(5) of the rules. Further, GWCH, along with both its representatives Intrado and CommNet, has had repeated telephone discussions with the state and local PSAPs to ensure that all coordination issues are resolved and that all deployment of both Phase I and Phase II service is as seamless as possible. As a result of these discussions and GWCH's efforts, GWCH is on pace to complete its Phase I requirements and its Phase II requirements as well.

Recently, to further this goal of timely E911 deployment, Carla Levesque, the President of GWCH's managing member, Great Western Cellular Partners, L.L.C., met with Minnesota State 911 Product Manager James Beutelspacher on February 18, 2004 to

Emergency Calling Systems, *Fourth Memorandum Opinion and Order*, 15 FCC Rcd 17442, 17458 (2000) ("If a carrier's preferred location solution is not available or will not fully satisfy the rules...the carrier would be expected to implement another solution that does comply with the rules. Further, if no solution is available that complies, the carrier would be expected to employ a solution that comes as close as possible, in terms of providing reasonably accurate location information as quickly as possible.").

discuss in detail GWCH's status as a new market entrant and the attendant challenges facing the company as it initiates service. Mr. Beutelspacher requested, and GWCH intends to provide as soon as possible, a plan documenting GWCH's efforts to meet Phase II compliance by December 31, 2005, including a budget, timeline for implementation and date certain for compliance purposes. GWCH and the state have thus arranged an alternative Phase II deployment date in accordance with Section 20.18(j)(5) of the rules.

GWCH respectfully requests consent to the withdrawal, without prejudice, of the Petition. For the foregoing reasons, GWCH believes its current Petition is unripe for Commission review. GWCH notes that this request does not intend to preclude GWCH from seeking relief from the Commission's Phase II rules in the future as circumstances may arise which warrant limited relief at that time. It is possible, for example, that during its Phase II build-out GWCH may encounter limited areas within GWCH's coverage area where strict compliance with accuracy requirements may prove infeasible, particularly along the market's periphery, and economic considerations may also warrant limited relief on an as-needed basis.⁴ Nonetheless, it is clear that GWCH's current request for relief has been rendered premature.

⁴ The FCC has previously indicated and recently confirmed that technical and financial issues may warrant relief on a case-by-case basis. If necessary, GWCH may seek such relief within the guidelines of the FCC's standards. *See Stay Order*, 17 FCC Rcd at 14853; *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, E911 Compliance Deadlines for Non-Nationwide Tier III CMRS Carriers*, 18 FCC Rcd 20987, 20994, 20996-97 (2003); *Revision of the Commission's Rules To Ensure Compatibility with Enhanced 911 Emergency Calling Systems; Petitions for Reconsideration of Phase II Waivers and Compliance Plans of Cingular Wireless, Nextel, and Verizon Wireless*, 18 FCC Rcd 21838, 21845 (2003).

CONCLUSION

For the foregoing reasons, the Commission should permit GWCH to withdraw its Petition without prejudice.

Respectfully submitted,

GREAT WESTERN CELLULAR HOLDINGS, L.L.C.

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